



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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January 29, 2010

Ms. Susan K. Haberstroh
Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 13 DE Reg. 890 [Proposed Tuberculosis Control Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOEs) proposal to amend its School Health Tuberculosis (TB) Control Program regulation published as 13 DE Reg. 890 in the January 1, 2010 issue of the Register of Regulations. The SCPD submitted comments on earlier versions of this regulation published at 7 DE Reg. 1394 (May 1, 2004)(proposed); 8 DE Reg. 38 (July 1, 2004)(proposed); and 8 DE Reg. 400 (September 1, 2004)(proposed) resulting in a final regulation published at 8 DE Reg. 1134 (February 1, 2005). The Department of Education is now proposing to adopt some discrete amendments after consultation with the Division of Public Health. Council has the following observations.

First, in §1.0, the definition of "School Staff and Extended Services Personnel" is expanded. The current version only covers persons who "work directly with students and staff". This limitation is deleted. SCPD has no objection to the amendment. However, the DOE may wish to consider whether it is too broad. For example, the definition of "volunteer" only covers persons "who share the same air space with public school students and staff on a regularly scheduled basis". There may be school employees with little contact with students and staff (e.g. outside groundskeeper; bus mechanic; janitor in district administration building).

Second, in §2.1.2, the DOE may wish to consider whether to add "charter school to district" to the examples. Moreover, SCPD assumes the DOE intends the examples to only apply to Delaware districts and charter schools. This could be clarified through the following amendment: "School Staff...need not be retested if they move, *within Delaware*, from district to district,..."

Third, in §4.1, the word “show” should be deleted. The current sentence reads as follows: “New school enterers shall show provide tuberculosis screening results...”

Fourth, §5.2 recites that an individual may stay in school for up to 6 weeks pending completion of testing if the person is “an asymptomatic individual, as described by the Division of Public Health”. Council believes the DOE may intend to refer to “asymptomatic”. Moreover, if the DPH has guidelines or published criteria describing asymptomatic individuals with tuberculosis, it would be helpful to include a cross reference. The reference “as described by the Division of Public Health” is not very informative and may be difficult for public schools to locate and follow.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulation.

Sincerely,



Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

- cc: The Honorable Lillian Lowery
- Dr. Teri Quinn Gray
- Ms. Martha Toomey
- Ms. Paula Fontello, Esq.
- Ms. Mary Cooke, Esq.
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